

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 1:23-CV-24299-MORENO

MARIA ELENA CHAVEZ LETONA,

Plaintiff,

vs.

AMOR DE JESUS, CORP.,
SWEET LIVING FACILITY INC.,
JOSE MACHADO,
ZELMIRA QUINONEZ, AND
AMINTA QUINONEZ,

Defendants.

**PLAINTIFF'S MOTION TO COMPEL
AND/OR FOR DISCOVERY HEARING**

Plaintiff, Maria Elena Chavez Letona, through her undersigned counsel and pursuant to Fed. R. Civ. P. 30(d)(1) and 37, requests the Court to enter an Order compelling the Defendants, Amor de Jesus, Corp., Sweet Living Facility Inc., Jose Machado, Zelmira Quiones, and Aminta Quiones, to make themselves available and to provide the withheld document and information, or to conduct a discovery hearing, as follows:

1. Plaintiff filed this lawsuit to address Defendants' violations of the Florida Minimum Wage Act and their violations of the Fair Labor Standards Act, seeking recovery of the applicable minimum wages she earned but did not receive, overtime wages, liquidated damages, attorney's fees, and costs. [ECF No. 1.]

2. Plaintiff alleged that Defendants employed her to work at their two Assisted Living Facilities to care for those who could not care for themselves due to their age and/or conditions. [ECF No. 1 at ¶17; 29 U.S.C. § 203(s)(1)(B).]

3. Defendants' Assisted Living Facilities, which are licensed and regulated by the State of Florida, for which they were issued License Nos. 11224 (Amor de Jesus) and 10526 (Sweet Living Facility), must comply with Chapter 59A-36, Florida Administrative Code, and Fla. Stat. §§ 429.01-429.55.

4. Plaintiff also alleges that Defendants did not pay her at least a minimum wage for all the hours she worked and did not pay her overtime wages for the time she spent working beyond 40 hours in a workweek as a non-exempt employee. [ECF No. 1.]

5. Rule 30(d)(1) of the Federal Rules of Civil Procedure provides that "Unless otherwise stipulated or ordered by the court, a deposition is limited to one day of 7 hours."

6. Plaintiff requested dates/times to depose the Defendants, Jose Machado, Zelmira Quinonez, and Aminta Quinonez, as well as the corporate representatives of Amor de Jesus and Sweet Living Facility.

7. Defendants responded by offering half days – either from 9am to 12pm or from 1pm to 5pm – on which Plaintiff could take the requested depositions.

8. Plaintiff has requested, over and over again, for days (not simply 3-4 hour blocks of time) when Defendants are available for their depositions, but none were forthcoming.

9. Deposing each of the Defendants within three to four hours is not likely feasible, especially if when a translator is needed, due to the time taken to translate each question and answer.

10. Defendant also advised that it needs to reschedule Zelmira Quinonez's deposition, scheduled for 9:00 a.m. on April 15, 2024, due to their counsel's attendance at a change of plea hearing before Judge Becerra at noon on Monday, April 15, 2024.

11. Due to the limited available dates and limited windows of availability offered by Defendants before the April 16, 2024 discovery cut-off, and the limited availability of Plaintiff's counsel, Plaintiff requests the Court to require Defendants to make themselves available for up to seven (7) hours each day for the taking of their depositions before April 26, 2024, and/or to consider extending the deadline by which the parties must complete discovery (and the dispositive motion deadline).

12. Plaintiff is further concerned that the Defendants' failure to timely provide all documents and materials responsive to the discovery served on them on January 8, 2024, and the lack of a ruling on the pending discovery issues will hamper her ability to take and complete the Defendants' depositions before the discovery cut-off of April 26, 2024. [ECF No. 21.]

- a. Plaintiff served her initial discovery in the form of Requests for Production on Defendants (Exhibit "A"), Interrogatories on each Defendant (Exhibit "B"), and Requests for Admissions on Defendants, Amor de Jesus, Inc. and Sweet Living Facility, Inc., on January 8, 2024;
- b. Defendants served their Responses to the Requests for Admissions on February 8, 2024 [ECF Nos. 34, 35], and their Responses to the Requests for Production [ECF No. 37], and Responses to Interrogatories (Exhibit "C") on February 9, 2024; and
- c. Plaintiff attempted to confer with the Defendants, but they did not respond to the conferral attempts, prompting the filing of discovery motions. [ECF Nos. 40, 44.]

13. Plaintiff thus attempted to address the pending issues related to the inadequacies of the Defendants' discovery responses and objections with Defendants and then attempted to address the above-described issues with the depositions of Defendants with them, but to no avail.

14. In light of the foregoing, Plaintiff requests the Court to require Defendants to provide availability as requested above and as required by the Federal Rules of Civil Procedure, to provide the withheld documents and information, and to grant such other and further relief as the Court deems just and proper, including the extension of any deadlines and/or postponement of trial.

WHEREFORE Plaintiff, Maria Elena Chavez Letona, respectfully requests that the Court convene a discovery hearing before the Magistrate Judge assigned to this case to address ADJ and SLF's deficient Responses to Plaintiff's First Interrogatories and Requests for Production.

CERTIFICATE OF CONFERRAL

Counsel for the movant conferred with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve the issues raised in the motion and represents that defense counsel did not agree to the relief requested herein, i.e., to provide more days longer than 3-4 hours to depose the Defendants before the discovery cut-off or to provide all the documents and information requested in the discovery served on January 8, 2024 before the Defendants are deposed.

Respectfully submitted this 10th day of April 2024.

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